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Veröffentlichungsversion / Published Version

Arbeitspapier / working paper

Empfohlene Zitierung / Suggested Citation:

Wessels, W., Kreiling, V., Rozenberg, O., & Heffler, C. (2013). *National parliaments: their emerging control over the European Council*. (Policy Paper / Jacques Delors Institute). Paris: Jacques Delors Institute. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-443219>

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NATIONAL PARLIAMENTS: THEIR EMERGING CONTROL OVER THE EUROPEAN COUNCIL



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SUMMARY

The European Council plays an increasingly important role in the governance of the European Union. In addition, since 2008, Euro summits have taken place at level of the heads of state and government of the member states whose currency is the euro. This Policy Paper analyses the emerging **control over European Council meetings and Euro summits** that is exercised by national parliaments. The authors examine **at what point in time the 27 national parliaments control, whether control takes place in committee or in the plenary, how intensively that control is exercised, and what model of control the individual national parliaments follow.**

“NATIONAL PARLIAMENTS HAVE STARTED TO DEVOTE TIME AND ENERGY TO CONTROLLING EUROPEAN COUNCIL MEETINGS AND EURO SUMMITS”

This Policy Paper measures the weaknesses of the parliamentary control over the European Council. It is still largely organised within domestic frontiers and national parliaments have only adapted to European Council meetings and Euro summits in an incremental and path-dependent way: The **control mechanisms of national parliaments for European Union politics had been designed for legislation, not for decisions taken by the heads of state or government.** But national parliaments have started to devote time and energy to controlling European Council meetings and Euro summits: **Between March 2011 and March 2012 there were 109 plenary debates and 180 committee meetings** that dealt with European Council meetings or Euro summits in the 27 member states. On the basis of this data, the authors identify **seven models of parliamentary control**: the “limited control model”, the “Europe as usual” model, the “expert model”, the “public forum”, the “government accountability” model, the “policy maker”, and “full europeanisation”. The differences between member states are rooted in their **visions of what the role of a parliament in a democracy should be.** Besides the technical aspects, the **motivations of and incentives for MPs (to actually use the existing channels of control)** also play an important role.

In their **recommendations** the authors call for **better involvement of national parliaments in the control of the European Council meetings and Euro summits**: an increased awareness of the issues at stake and of the functioning of the European Council meetings and Euro summits. It is essential to **combine room for manoeuvre of the head of state or government with deeply informed oversight by national parliaments.** Within national parliaments, transparency and openness could be enhanced for meetings in committee and mere declarations of the government could become politically more salient and be upgraded following the question time pattern. Practices of national governments should allow for timely and complete information as well as for an inclusion of the chair of the European affairs committee. Finally, the authors propose the establishment of a genuine multi-level parliamentary cooperation: to deepen the link between the national parliaments and the European Parliament and to create an **inter-parliamentary conference for budgetary and economic issues on the basis of Article 13 TSCG**, following the example of the inter-parliamentary conference for CFSP and CSDP.

TABLE OF CONTENTS

INTRODUCTION	3
1. What does “control of European Council and Euro summits” by national parliaments mean?	3
2. National parliaments & European Councils: an increasing awareness	5
2.1. Ex-ante debates on the European Council and the Euro summits	5
2.2. Ex-post debates on the European Council and the Euro summits	6
3. Seven types of parliamentary control	8
4. The control over European Councils by national parliaments: some general trends	11
5. Considerations for Recommendations	12
5.1. Activities within national parliaments	12
5.2. Practices within national governments	13
5.3. Enhancing multilevel parliamentary cooperation	14
REFERENCES	16

INTRODUCTION

This Policy Paper is a synopsis of the main results of a study on the control by national parliaments of the European Council and the Euro zone summits which TEPSA and *Notre Europe – Jacques Delors Institute* have written at the request of the European Parliament.¹ Starting with the observation that the European Council is increasingly central to the governance of the European Union, this policy paper asks to what extent the national parliaments in the 27 member states can exercise control over it.

Even if national parliaments have originally focused their involvement in EU affairs on the ordinary legislative process, it appears that most of the chambers have started to develop specific activities, before or after European summits. From ex-ante influence to ex-post accountability, seven different models of control of parliamentary control have been identified across the 27 member states. Beyond their differences rooted in national democratic systems, we formulate twelve policy recommendations. One of the proposals is of special interest due to the on-going debate on the parliamentary control over the coordination of budgetary and economic policies in the Eurozone and among the Contracting Parties of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union. On the basis of Article 13 TSCG, we propose to create an Inter-Parliamentary Conference for budgetary and economic issues and to model it according to the Inter-Parliamentary Conference for CFSP and CSDP.

1. What does “control of European Council and Euro summits” by national parliaments mean?

“WITH THE RISING POWER OF THE EUROPEAN COUNCIL THE ISSUE OF AN ADEQUATE CHECKS AND BALANCES BECOMES INCREASINGLY SALIENT”

European Council meetings and Euro summits play an increasingly important role in the governance of the European Union, especially in the context of the on-going financial and economic crisis. However, European Council and Euro zone summits appear to be difficult to control for national parliaments both because they are behind closed doors and because the adaptation of national parliaments to Europe was not fitted for that purpose. With the rising power of the European Council the issue of an adequate checks and balances becomes increasingly salient; especially as the European Parliament so far cannot fully substitute the democratic deficit at the national level.

The European Council has taken a dominant position in the institutional architecture of the European Union.² The heads of state or government, characterised as the “Unions highest executive leaders”³ or as a highest

1. Wolfgang Wessels, Olivier Rozenberg, Mirte Van Den Berge, Claudia Heffttler, Valentin Kreilinger, Laura Ventura, “Democratic Control in the member states of the European Council and the Euro zone summits”, European Parliament, Directorate General for Internal Policies, Policy Department C: Citizens’ Rights and Constitutional Affairs, IP/C/AFCO/IC/2012-012. Yves Bertoncini, Renaud Dehousse, Jean-Paul Jacqué, and Michael Shackleton acted as scientific advisors. Experts from all 27 EU member states have contributed by providing information and data: Eric Miklin (Austria); Regis Dandoy, Clément Jadot (Belgium); Dobrin Kanev (Bulgaria); Viera Knutelska (Czech Republic); Kalliope Agapiou-Josephides (Cyprus); Mette B. Christensen (Denmark); Piret Ehin (Estonia); Tapio Raunio (Finland); Valentin Kreilinger, Kateryna Perepechay, Olivier Rozenberg (France); Claudia Heffttler, Oliver Höing (Germany); Konstantin Iliopoulos, Anna Vallianatou (Greece); Gabriella Ilonszki (Hungary); Gavin Barrett (Ireland); Michele Comelli (Italy); Zaneta Ozolin (Latvia); Ramunas Vilpisauskas (Lithuania); Astrid Speitzer (Luxembourg); Roderick Pace (Malta); Iona Ebben, Adriaan Schout, Jan Marinus Wiersma (Netherlands); Maria Karasinska-Fendler, Anna Jedrzejewska (Poland); Davor Jancic (Portugal); Angela Tacea (Romania); Andrea Figulova (Slovakia); Ana Marija Kristovic, Vid Tomic, Zlatko Sabic (Slovenia); Manuel Sánchez de Dios (Spain); Hans Hegeland (Sweden); Ariella Huff, Julie Smith (United Kingdom). The authors would like to thank all the experts and advisors who have been involved into this project as well as the European Parliament.

2. De Schoutheete 2012.

3. Van Rompuy 2012.

political representatives of the member states as "Master of the Treaties",⁴ have turned the European Council into the key player in the multi-level system of the European Union. Though the European Council has played a major role since its creation in 1974 the heads of state or government have intensified their activities in recent years to take salient measures highly relevant for national parliaments. Since the economic crises from 2008 onwards the heads of state or government have taken decisions which deeply affect the budgetary sovereignty of the member states and their parliaments. European Council meetings are less and less mere talking-shops in charge of long-term issues. Especially the Euro summits have turned more and more into an emerging economic government. They are increasingly involved directly in the decision-making process, be it for agreeing on international treaties, like the Treaty on Stability, Coordination and Governance in the EMU (TSCG) or deciding to aid a member state with high interest rates at the bond markets.

Four problems can be distinguished regarding the lack of democratic control over the European Council:

1. The **procedural style of the summits** is not fitted for an efficient control. Meetings are under rule of professional secrecy. Few public documents are distributed before. The governance can be qualified as "performative" since many summits took place in a tense context, with suspense and surprise after night sessions.

“ IN THE POLITICAL SYSTEM
OF CYPRUS, THE POST OF A PRIME
MINISTER DOES NOT EXIST AND
THE PRESIDENT IS INDEPENDENT
FROM THE PARLIAMENT ”

2. Contrary to the European Commission that is responsible to the European Parliament, **the European Council, taken as a whole, is not under the control of a single political institution.** It is only the members of the European Council who are individually controlled within their state. On that aspect, there is a common European parliamentary model according to which Prime Ministers, who are leading the national delegation, can be removed by their parliament through a censure motion. Yet, important exceptions to that model should be noted. In the political system of Cyprus, the post of a Prime Minister does not exist and the President is independent from the parliament. In France and Lithuania, there is a Prime Minister but it is the President who leads the French delegation and he/she is not responsible to the parliament. The responsibility for leading the delegation has been a matter of discussion, and in some cases open conflicts, in several countries, as Romania, Finland, Poland and the Czech Republic.

3. The issue of the control over the members of the European Council is **politically highly sensitive.** The significance of the decisions taken and the exceptional attention from the media contribute to put pressure on the shoulders of Prime Ministers. Their individual political capital is at stake when they sit with their peers.
4. The **Europeanisation of national parliaments** – understood as the way national parliamentary assemblies adapted to the EU – **is largely unfitted for controlling European summits.** To a large extent, the adaptation of national parliaments to the EU, especially the subsidiarity procedure, was designed for the ordinary legislative procedure. Thus, national chambers were given the right to be informed and to give their opinion vis-à-vis draft regulations or draft directives. The timing and the organisation of the parliamentary scrutiny were established according to the agenda of the traditional EU decision-making process. This issue becomes therefore critical for national parliaments when the decision-making process follows less and less this practice and calls increasingly for the participation of the head of government. The changes in different national constitutions that were introduced from Maastricht to Lisbon to the benefit of national parliaments were designed to control ministers in the Council of the EU rather than Prime Ministers in the European Council.

Without any doubt, the meetings of the heads of state and government in the European Council are not fitted for parliamentary control. However, national parliaments have attempted to devote time and energy to them. The following part offers a comprehensive assessment of these activities over a recent time period.

4. Bundesverfassungsgericht 2009.

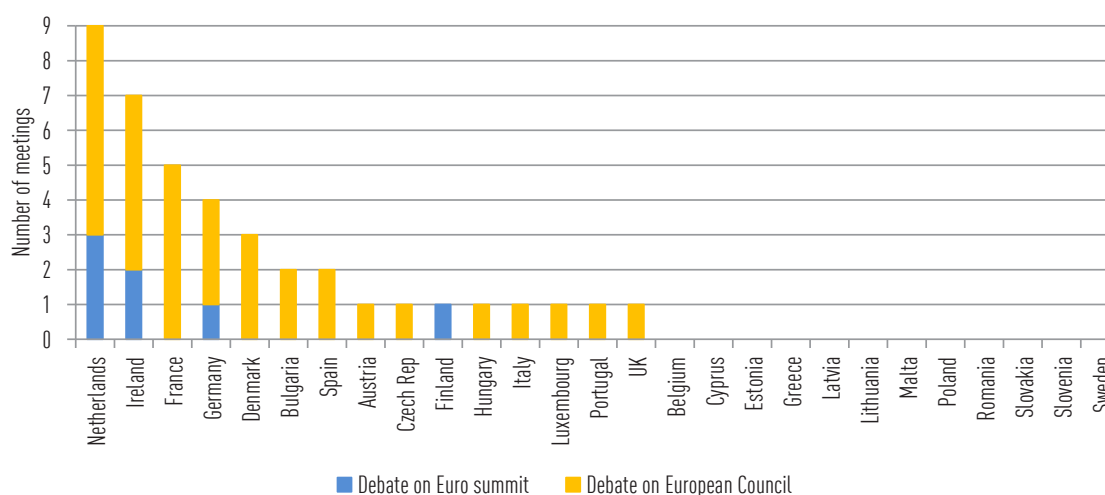
2. National parliaments & European Councils: an increasing awareness

Even if national parliaments have originally focused their involvement in EU affairs on the ordinary legislative process, we find evidences of an increasing awareness of the significance of the European Council. In a majority of member states, there are formal rules explicitly mentioning the control of the national parliament over the European Council. In all cases these rules are focused on securing information about the summits. In some cases, they also allow parliaments to give opinions and even mandates, but there are very few specific rules about Euro summits.⁵ Only looking at formal rules is, however, not enough for analysing the real parliamentary involvement, as we know that some prerogatives can be under-used. In order to assess the activities of national parliaments related to European Council and Euro summits, we have looked at the floor and committees debates related to them between March 2011 and March 2012 in all 27 member states.⁶

2.1. Ex-ante debates on the European Council and the Euro summits

Generally speaking, parliaments that are active before European Council meetings are the ones who have obtained important prerogatives in EU affairs.⁷ Indeed, the correlation is high between the number of meetings before European Council meetings and the formal rights obtained by national chambers in general EU affairs⁸. Yet, there are differences between ex-ante control based on the plenary or on committees. The following two figures show the frequency of plenary and committee debates before the European Council and the Euro summits in all 27 member states.

Figure 1: Plenary debates before European Council meetings and Euro summits (March 2011 – March 2012)



Source: Information from the questionnaires of the report on Democratic Control in the member states of the European Council and the Euro zone summits.

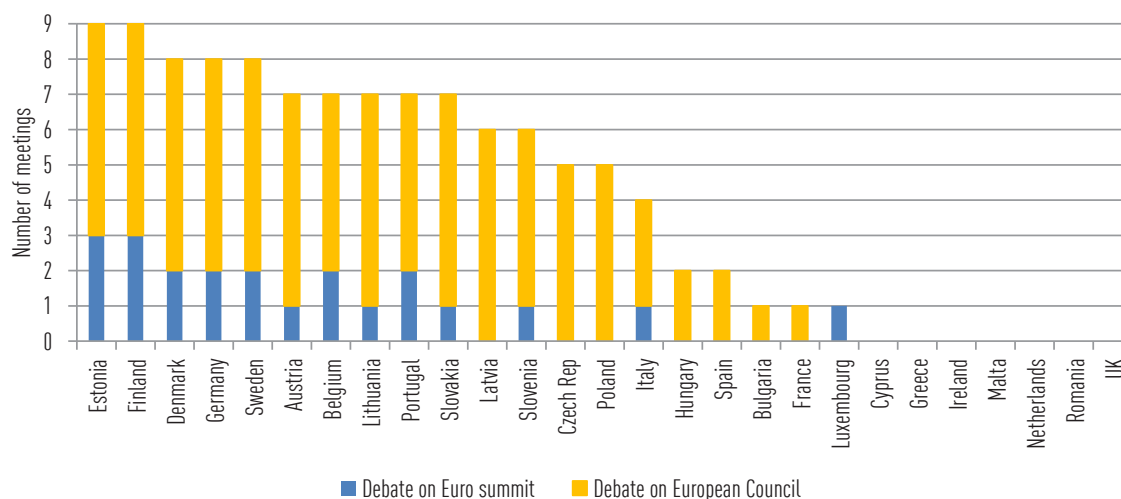
5. For more details: [Report on Democratic Control in the member states of the European Council and the Euro zone summits](#).

6. This period comprises nine meetings in total: an extraordinary meeting of the European Council and the meeting of the heads of state or government of the Euro Area (11 March 2011), an ordinary meeting of the European Council (24 and 25 March 2011), an ordinary meeting of the European Council (23 and 24 June 2011), a meeting of the heads of state or government of the Euro Area (21 July 2011), an ordinary meeting of the European Council (23 October 2011), an informal meeting of the European Council and meeting of the heads of state or government of the Euro Area (26 October 2011), an ordinary meeting of the European Council (8 and 9 December 2011), an informal meeting of the European Council (30 January 2012) and an ordinary meeting of the European Council (1 and 2 March 2012). Whenever a Euro summit was linked to a European Council, it is not counted as a separate summit here.

7. In addition to the explicit mention of the European Council meetings, there are in most national parliaments rules related to the control of the European institutions that include de facto the European Council meetings.

8. If (Winzen 2012) ranking for formal rights is compared to the number of ex-ante floor or committee meetings from March 2011 to March 2012, the correlation is 0.46 (Person's r).

Figure 2: Committee debates before European Council meetings and Euro summits (March 2011 – March 2012)



Source: Information from the questionnaires of the report on Democratic Control in the member states of the European Council and the Euro zone summits.

The three countries with the highest frequency of ex-ante plenary debates, the Netherlands, Ireland, and France, do not hold committee debates before the summits. On the other hand, in Estonia, Finland, Portugal⁹, Sweden, Belgium, Lithuania, Slovakia, Latvia and Italy the debates are held at committee level without regular involvement of the plenary. In Denmark and Germany, there are both plenary debates and frequent debates in the committees.

According to the information of this quantitative overview for the time period between March 2011 and March 2012, Romania, Malta, Greece and the UK are the countries which are poorly involved in the preparation of European Council meetings.

Regarding especially the committee meetings, in all cases, it is the European affairs committees, in their different variations, which hold the main responsibility for the control of the European Council at committee level. In several parliaments, however, the finance or budget committees have become increasingly involved since the Euro crisis. The foreign affairs committees are often responsible for security issues of the European Council. But in general, European affairs committees are the most active bodies - before and after European Council meetings.

2.2. Ex-post debates on the European Council and the Euro summits

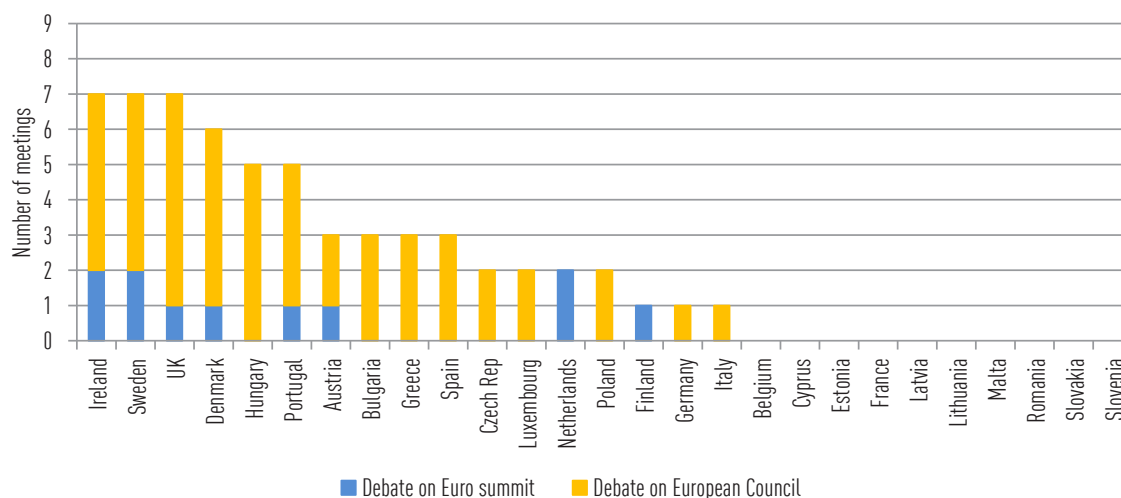
“SEVERAL PARLIAMENTS HAVE SHIFTED THEIR FOCUS TO THE EX-ANTE CONTROL TO INFLUENCE THE GOVERNMENT POSITION PRIOR TO BINDING AGREEMENTS AT THE EU-LEVEL”

Several parliaments have shifted their focus to the ex-ante control of European Council meetings in order to influence the government position prior to binding agreements by the head of state or government at the EU-level. Some parliaments still control their Prime Ministers after the summits in order to assure that the government complied to its obligations and, for opposition parties, in order to voice criticism. **The overall frequency of plenary debates after a summit is even higher than ex-ante.** Again there is no clear-cut model of common scrutiny standards in all parliaments but the procedures vary significantly. We do not find a correlation between the ex-post involvement in the control of European Council meetings and the general rights and/or activities of the houses regarding EU affairs.¹⁰

⁹. In Portugal regular ex-ante involvement of the plenary is stipulated in the European Union Act since May 2012.

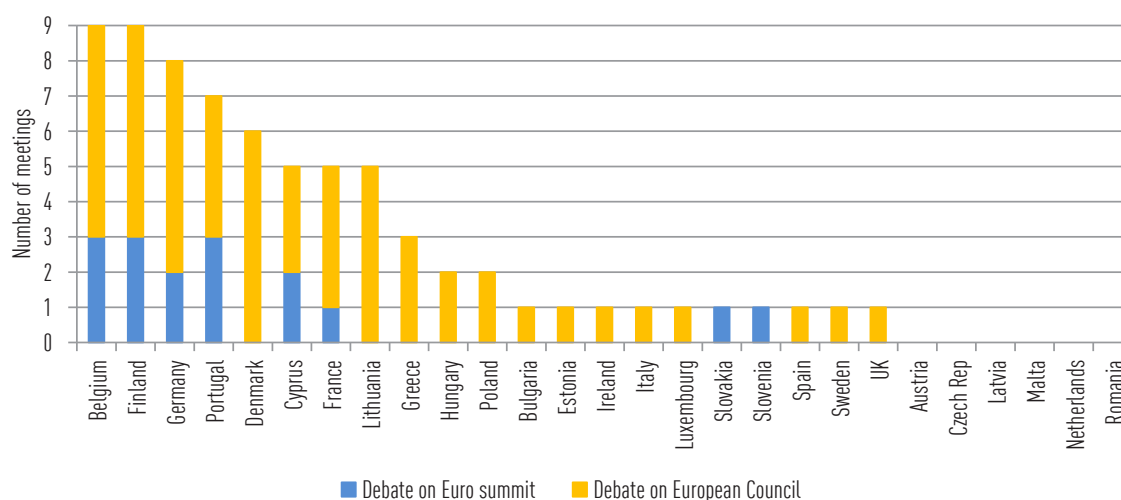
¹⁰. Pearson's $r = -0.05$. See note 8.

Figure 3: Plenary debates after European Council meetings and Euro summits (March 2011 – March 2012)



Source: Information from the questionnaires of the report on Democratic Control in the member states of the European Council and the Euro zone summits.

Figure 4: Committee debates after European Council meetings and Euro summits (March 2011 – March 2012)



Source: Information from the questionnaires of the report on Democratic Control in the member states of the European Council and the Euro zone summits.

Among the countries with a high frequency of plenary debates prior to European Council meetings, it is interesting to see that only Ireland and Denmark also hold regular ex-post plenary debates. In France and Germany, ex-post debates are confined to the committee level. And the Netherlands only hold ex-post debates in exceptional cases. Within those three parliaments, the lack of public floor debate after the summits is undoubtedly a consequence of their frequency before – the time and energy of the MPs are limited as well as the free slots on the agenda. Malta and Romania are the two member states where not one single debate either at plenary or at committee level has been held in the lower house; this leaves them as the two only countries where no control of government activities is provided through debates before or after the European Council meetings or Euro summits in the lower chamber.

In addition to the level of activities before and after the European Council, the following common trends can also be identified:

- a personal and increasing **involvement of the Prime Ministers** in the activities of national parliaments;
- less ex-post control and **more ex-ante control**;
- **higher publicity** around parliamentary activities related to the European Council – even when at the level of committees;
- **greater involvement of European affairs committees** over other committees;
- a **new regularity** in the control of European summits.

3. Seven types of parliamentary control

On the basis of the data presented, **seven different models can be distinguished** according to three criteria: timing, locus, and significance of parliamentary control. The models differ not only in the level of involvement but also in the purpose of parliamentary control: influence, public debate, expert discussion or government accountability.

The following table offers a **synthesis of the data on the ex-post and ex-ante involvement in committees and in plenary**. Each member state has been located according to the number of meetings and plenary sessions held from March 2011 to March 2012. Following the seminal work by Katrin Auel¹¹ that distinguishes types of parliamentary control of EU affairs according to their finality (policy-making vs. public debate), the location of each lower house in the table is associated with the definition of seven types of parliamentary control of European Council meetings and Euro summits.

11. Auel (2007).

Table 1: Parliamentary body involved in ex-ante and ex-post scrutiny of the European Council¹²

EX-ANTE	REDUCED INVOLVEMENT	COMMITTEE	PLENARY	INVOLVEMENT BOTH IN COMMITTEES AND PLENARY
EX-POST				
REDUCED INVOLVEMENT	LIMITED CONTROL MODEL Hungary Luxemburg Romania	"EUROPE AS USUAL" Czech Republic Estonia Italy Latvia Poland Slovakia	Netherlands	
COMMITTEE	Cyprus	EXPERT MODEL Belgium Finland Lithuania Slovenia	France	POLICY MAKER Germany
PLENARY	GOVERNMENT ACCOUNTABILITY Bulgaria Malta Spain UK	Austria Sweden	PUBLIC FORUM Ireland	
INVOLVEMENT BOTH IN COMMITTEES AND PLENARY	Greece	Portugal		FULL EUROPEANISATION Denmark

Source: Report on Democratic Control in the member states of the European Council and the Euro zone summits.

Seven different models, as well as a few outliers, can be identified from this table:

1. In the **limited control model**, the parliament is not active regarding European Council meetings either because the parliament has reduced rights in EU affairs in general (Luxembourg and Romania up to now) or the majorities in Parliament tend to consider that the European Council should remain the only prerogative of their Prime Minister (Hungary).
2. In the **"Europe as usual" model**, national parliaments tend to follow incrementally the path that was taken for EU legislation that is ex-ante control realised by a specialised committee. As a result, MPs are less interested in the outcomes of the European Council and the involvement of the plenary is limited. The idea that this pattern of parliamentary control is rooted in the way those houses deal with ordinary draft

12. Explanation:

Reduced involvement = less than 3 meetings in European affairs committees (EACs) and less than 3 sessions in plenary from March 2011 to March 2012.

Committee = 3 or more meetings in EACs and less than 3 sessions in plenary.

Plenary = less than 3 meetings in EACs and 3 or more sessions in plenary.

Involvement in both = 3 or more meetings in EACs and 3 or more sessions in plenary.

EU legislation is confirmed by the fact that those parliaments are among the most Europeanised in terms of rights and/or European affairs committees meetings. The fact that those parliaments are more active before European Council meetings than afterwards, actually explains why the correlation with the scrutiny strength of the parliament in EU affairs is high and positive ex-ante and insignificant ex-post.

3. In the **expert model**, European affairs committees are active both before and after the summits, but the involvement of the floor is reduced. This model is based on expertise, since specialised members are in charge of the control. Yet, expertise is not equivalent to closed-door discussions since many European affairs committees meet in public when dealing with European Council meetings.
4. Opposed to the expert model is the **public forum model** with plenary sessions before and after EU summits. The Irish case is the only example for it, following a recent and informal commitment made by the *Taoiseach*. As illustrated by this example, a public discussion in a non-expert setting is also a strategy of self-promotion.
5. The **government accountability model** can be found when the involvement before a European Council meeting is limited and debates take place in the plenary afterwards. The main focus of the parliamentary involvement is to discuss the outcomes of the meeting and especially the line adopted by the Prime Minister. The opposition can particularly take the opportunity of those debates to voice concerns. Political systems that follow the Westminster model are well represented in this category. The fact that those last parliaments do not have strong mandating powers confirms that their main aim is politics rather than policy.
6. The **policy maker model** is rather opposite to the government accountability one since the main focus of the parliamentary activity is put on influencing the government before the summit rather than contesting its choice after. Both committee meetings and floor sessions can help for that purpose as indicated by the German example. Expert meetings are still needed after the summit in order to check the positions upheld by the Chancellor.

“THE DANISH CASE
ILLUSTRATES PERFECTLY
THE EXAMPLE OF FULL
EUROPEANISATION”

7. Finally, the Danish case illustrates perfectly the example of **full Europeanisation** as it offers a mix of expertise and publicity, both before and after European Council meetings.

There are a few member states that can be regarded as intermediaries between these cases:

- Austria and Sweden are indeed a mix of the accountability, public forum and expert model.
- Cyprus is all the more close to the limited control model in that the President chairing the national delegation is fully independent from the parliament.
- Greece and Portugal are close to the accountability pattern but the important level of involvement after a European Council meeting suggests that the parliament is a place for discussing the implementation of the decisions taken in a very difficult economic context.
- In the Netherlands and France, the focus put on floor debates before the summits tends to assimilate those cases to the policy maker pattern with some specificities: in the *Tweede Kamer*, debates aim at gathering commitments from the Prime Minister on “red lines”; in the *Assemblée nationale*, many majority MPs share the (questionable) idea that a floor debate will back their President in Brussels.

4. The control over European Councils by national parliaments: some general trends

Two conclusions can be drawn with respect to the role of national parliaments in the control of the European Council and Euro summits.

First, **beyond the traditional motivational issue faced when trying to involve MPs in EU affairs, “something is happening” in national parliaments in relation to European Council meetings:** Whereas many previous studies on national parliaments in the EU concluded that there were rules that were not used, there are numerous and diverse practices of control that are actually pursued throughout Europe. In the period between March 2011 and March 2012, no less than 109 debates were organised on the floor of the 27 lower houses as well as 180 meetings in committees. Of course, the level of activity is greater in Denmark, Germany, the Netherlands, Portugal, Sweden and Ireland than in Cyprus, Greece, Italy, Latvia, Romania and Slovakia. Of course, the context of sovereign debt crisis was very specific to that period. Yet, **there are some signs that parliaments are starting to wake up to the European governance and that, after years of false promises, they may eventually “learn to fight back”.**¹³

Second, beyond the diversity of the practices within national democracies, models of parliamentary control of European Council meetings and Euro zone summits are emerging: **Seven types of control have been identified.** These models are endogenous rather than exogenous: they are rooted in national political cultures (rather than in the specific relation of the individual member state to the EU) and based on **divergent visions of what should be the legislatures’ role in a democracy:** checking the government or influencing it, granting expertise or talking to citizens, attacking opponents or seeking consensus.

Apart from those two general elements, four other lessons can be pointed to:

1. One lesson to be drawn from the data collected is that, besides the possible awakening of national parliament, only a few of them use their formal opportunities to a larger degree. As identified by the literature, one of the major questions is about **MPs’ motivations and incentives to use existing channels more intensively.** One aspect of the question is that majority parliamentarians have alternative forms of contact and dialogue with the heads of government. Another is that they feel the limits of the impact of their activities. For their personal careers, in view of time constraints and resources, the political return of investing in parliamentary debates is seen to be too low. Therefore, existing and future parliamentary procedures should not be evaluated only according to their technical aspects (do they provide full information? are they transparent enough? is the timing good?) but also according to what can be called their “motivational potential”: are they attractive enough regarding voting, policy or office seeking MPs?
2. Another lesson from the comparison between the 27 member states is the incremental and **path-dependent type of adaptation to the EU.** Even if European Council meetings have become major events in recent years, many parliamentary chambers still look at them through their old glasses. Debates on the floor or in committees will be organised depending on whether parliamentary activities are traditionally floor or committee oriented. Also, as seen on several occasions, the control of the European Council suffers from the fact that the Europeanisation process within national legislatures was historically designed for ordinary draft legislation. The expert style of scrutinising EU draft directives through specialised and obscure committees generally does not fit with a governance system based on “last-chance” summits.

13. Raunio / Hix 2000.

“EX-ANTE CONTROL IS ASSOCIATED WITH THE WILLINGNESS TO INFLUENCE EU OUTPUTS AND EX-POST CONTROL WITH PUBLIC DEBATES AND PRIME MINISTER’S ACCOUNTABILITY”

3. Thirdly, **ex-ante and ex-post control are both significant.** As said, national parliaments do not only differ in terms of amount of attention devoted to European Council meetings but also regarding the purpose of such activity. Ex-ante control is generally associated with the willingness to influence EU outputs. We have seen that several parliaments, like the *Tweede Kamer*, moved from ex-post to ex-ante control in order to weigh more heavily on the official positions. By contrast, ex-post control is rather associated with public debates and Prime Ministers’ accountability. In a highly tense political context some heads of government had to resign and coalitions broke up.

4. Last lesson: **the world of parliamentary control of European Council is organised within domestic frontiers and there are - so far - very limited efforts of cooperation between member states.** There are some signs that parliamentary cooperation is currently experiencing a turning point in Europe with the implementation of the early warning system for ordinary legislation, a greater cooperation between national parliaments and the European Parliament, or with the permanent presence of clerks in Brussels. Clearly, the control of European Council meetings remains exterior to that trend. There are few incentives for MPs and MEPs to spend their time on a dialogue which has no binding impact. Whether a collective form of parliamentary control is possible, remains an open question which we address in recommendation 12.

5. Considerations for Recommendations

To conclude, this Policy Paper formulates some recommendations for a better involvement of national parliaments in the control of the European Council. These recommendations propose to stimulate the Europeanisation of national parliaments, meaning an increased awareness in national parliaments of both the issues at stake and of the way the European Council negotiates, thus allowing some room for manoeuvre for their Prime Minister, combined with deeply informed oversight. Recommendations have been grouped in three sets: the activities within national parliaments, the practices within national governments and the enhancement of multilevel parliamentary cooperation.

5.1. Activities within national parliaments

1. **Ensure transparency and openness of parliamentary meetings (including European affairs committees) and increase the awareness of their activities.**

As there are strong justifications for the confidentiality of European Council meetings, the transparency of the national parliaments’ activities appears as a way to counter-balance the secrecy of the European Council meetings. Granting access to the European affairs committees meetings in person and via the internet would open up the meetings of national parliamentary oversight of the European Council and Euro summits and increase the interest of the general public and the media. The example of the public meetings of the European affairs committee of the Danish parliament underlines the fact that publicity is also an incentive for MPs to engage in European activities, given the possible press coverage.

2. **Oblige Prime Ministers to be present - after or before the debates on the summits, be they ordinary or extraordinary.**

The survey has confirmed that the physical involvement of the Prime Minister, as in the Netherlands, enhances the political salience of the debates. The holding of the debates on the floor or in committees appears to be less crucial in that perspective than the Prime Minister’s presence - if they are public. Yet,

this solution is not sufficient in itself as there are three member states represented by their heads of state in the European Council. The Irish case also offers an example where parliamentary meetings are poorly attended despite the *Taoiseach*'s involvement.

3. Provide for the government to respond to MPs during parliamentary debates - and not just to deliver a speech.

“THE SALIENCE OF THE DEBATE SUFFERS FROM THE FACT THAT SOME PRIME MINISTERS LEAVE THE DEBATE AFTER HAVING DELIVERED THEIR SPEECH”

Parliamentary debates fulfil both praising and blaming functions. It is important for the accountability process that Prime Ministers do not just enjoy the first aspect without enduring the second one. A few case studies show that the salience of the debate suffers from the fact that some Prime Ministers leave the debate after having delivered their speech. In that respect, a procedure of questions and answers based on the question time pattern appears to be particularly efficient.

4. Guarantee and protect a specific role for the opposition.

A privileged role could be given to parliamentary opposition during debates, by giving disproportional speaking time and/or by allowing opposition leaders to speak first after the government representative. The recommendation is based on negative examples, like France, where opposition leaders take the floor after no less than one hour of speeches, once the Prime Minister, committees' chairs and majority leaders have spoken. A more diverse speaking order could lead to a more politicised debate.

5.2. Practices within national governments

5. Transmit all EU draft texts before the summits, including draft versions of the European Council conclusions but also other types of official texts.

Given the recent tendency towards the participation of the European Council in the EU legislative process, it is a democratic requisite that national parliaments can consult the draft texts under discussions. This does not mean, of course, that any kind of papers should be sent to them as the bargaining requires a certain degree of discretion. As, since the entry-into-force of the Lisbon Treaty, European Commission documents are directly sent to national parliaments without the intermediary of governmental administrations, a similar system could be imagined for the European Council with the General Secretariat of the Council sending some documents directly to all national parliaments or contributing to a website like IPEX where the documents are available (within a restricted section of the website).

6. Notify European affairs committees about developments during the last days before the summits.

The study demonstrates that the timing issue is crucial for ex-ante control of the European Council. A session organised too early (more than ten days before a European Council) is often irrelevant due to the lack of accuracy of the information and the lack of interest from journalists. Yet, it is often difficult to organise a session of control just before a European Council. As the last days are generally crucial for preparing a European Council, informal practices of communication between national government and parliament should be developed to overcome this problem of planning the formal agendas.

7. Secure parliamentary information and consultation when new treaties are under preparation.

Information and consultation mentioned in points 5 and 6 should especially apply when European Council meetings are discussing new treaties like the EFSF Treaty, the ESM Treaty and the TSCG that have all been concluded outside the framework of the EU treaties. Instead of reducing the role of national parliaments to giving their consent once the treaty is to be ratified according to national constitutional

requirements, national parliaments could be kept informed following the practice established in Germany by the June 2012 judgment of the German Federal Constitutional Court on the ESM Treaty negotiations which essentially says, that the same information obligations apply to these treaties as to any treaty modification of the EU treaties.¹⁴

8. Allow the chair of the EU affairs committee to participate in internal governmental meetings preparing a session of the European Council (with no official role and with the obligation of confidentiality).

The difficulty for national governments to integrate the views and priorities of their parliament partly derives from the fact they are first concerned with finding a common position between the different ministerial departments. Therefore, the presence of MPs in ministerial internal meetings could be decisive. Of course, such a procedure does not mean that MPs should take decisions, like defining the national position before a European Council which is a unique prerogative of the national government in most of the member states. Yet, one can expect anticipatory effects from the parliamentary presence in governmental meetings and therefore a better concern for parliamentary views. In return, a better understanding of the governmental viewpoints can result from such cooperation on the side of the parliament. Regarding the obligation of confidentiality, existing systems of confidential association of the parliament are working efficiently both at national and European level for the control over secret services or military interventions.

9. Invite the chair of the EU affairs committee to participate in the national delegation during the European Council (with no presence in the room, no official role and with the obligation of confidentiality).

“ENABLING SOME MPS TO JOIN A NATIONAL DELEGATION COULD ALSO BE UNDERSTOOD AS AN INCENTIVE FOR THEM TO ENGAGE IN EU AFFAIRS”

This recommendation, which was originally formulated by the Commissioner Michel Barnier, is close to the previous one and shares the same objectives: informal influence and learning process. Such a practice is already followed, both at national and EU level, for many international negotiations, with for instance MEPs joining the European Commission delegation to international trade rounds. Given the problem of motivations within many parliaments, enabling some MPs to join a national delegation could also be understood as an incentive for them to engage in EU affairs.

5.3. Enhancing multilevel parliamentary cooperation

10. Deepen the link between national parliaments and the European Parliament.

Representatives of national parliaments could be invited by the European Parliament to participate in EP plenary debates before and after European Council meetings. Likewise, national parliaments – or at least those who do not do it already – could invite members of the European Parliament to participate in the national debates that take place around European Council meetings. Beyond the sending of invitations, both the EP and national parliaments could be invited to modify their rules of procedure to allow/encourage parliamentarians from the other assembly to participate in their own debates related to European Council meetings. As already some opportunities exist, national parliaments need to pursue an active strategy of inviting colleagues from other Member states.

¹⁴. BVerfG, 2 BvE 4/11. The judgment defines the document-types for transmission to the *Bundestag*, insists on written evidence, and mentions the relevance of the timing and the continuity of information provided by the government.

11. Deepen the relations within European Political Parties.

The pre-summit meetings of the European Political Parties could have a specific parliamentary dimension, for instance through the chairs of European affairs committees or of budget committees from the same political family. As the study stated that the parliamentary control of the European Council was organised according to a national logic only – each parliament controls its government rather than the European Council globally – those kinds of meetings could help national MPs to adopt a broader perspective.

12. Create a specialised parliamentary conference on issues of shared concern for national parliaments and the European Parliament in budgetary/fiscal policies.

Last but not least, we propose, on the basis of Article 13 of the TSCG¹⁵, to create an Inter-Parliamentary Conference for budgetary and economic issues could be created on the model of the Inter-Parliamentary Conference for CFSP and CSDP.

The newly created Inter-Parliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP) is composed of 6 members per national parliament and 16 MEPs, for a total number of 178 parliamentarians. The “working paper” issued after the meeting of the Presidents of the Parliaments of the six founding member states that took place in Luxembourg on 11 January 2013 also proposes an interparliamentary conference based on this model.

As for the Inter-Parliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP) it could be imagined that the secretariat of the Conference will be provided by the member state holding the Council Presidency, in cooperation with the European Parliament, and the President of the Euro Summit and of the Euro Group will be invited to attend meetings “in order to set out the outlines and strategies of the budgetary and economic issues of the European Union.”

The Inter-Parliamentary Conference would be able to adopt non-binding conclusions by consensus but will meet directly before European Council meetings to allow the Conference to give input on the agenda of the summits. The national parliamentary delegation for the conference would be composed proportionally to political composition of the assemblies and would systematically include, both the Chairs of the European affairs committees and of the budget and/or finance committees. The member states that did not sign the TSCG would logically not be full-members of that Conference, but observers. Regarding MPs belonging to TSCG contracting parties, no differences should be made between national and European parliamentarians originating from the Euro zone or not.

An alternative proposal for the budgetary conference would have been to create a small working group made up of one or two MPs per member state (logically budget committees chairs) and several MEPs. Even if such groups could be more efficient and reactive, it seems important to keep a parliamentary form to interparliamentary cooperation, especially since it enables opposition MPs to be involved. Otherwise, there is a risk of creating a new structure involving only a few expert MPs with no further contacts with their parliaments and citizens.

15. Article 13 of the TSCG: “As provided for in Title II of Protocol (No 1) on the role of national Parliaments in the European Union annexed to the European Union Treaties, the European Parliament and the national Parliaments of the Contracting Parties will together determine the organisation and promotion of a conference of representatives of the relevant committees of the European Parliament and representatives of the relevant committees of national Parliaments in order to discuss budgetary policies and other issues covered by this Treaty.”

REFERENCES

Auel, Katrin (2007), "Democratic Accountability and National Parliaments: Redefining the Impact of Parliamentary Scrutiny in EU Affairs", *European Law Journal*, 13(4), 2007, 487-504.

Bundesverfassungsgericht [=German Federal Constitutional Court] (2009), BVerfG v. 30.6.2009, 2 BvE 2/08 Rn. 233, 239.

Bundesverfassungsgericht [=German Federal Constitutional Court] (2012): BVerfG v. 19.6.2012, 2 BvE 4/11.

de Schoutheete, Philippe (2012), *The European Council and the Community Method*, Notre Europe Policy Paper No. 56.

European Council (2012), *Towards a genuine Economic and Monetary Union*, 5 December 2012.

Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy (2012), *Rules of Procedure*.

Lammert, Norbert *et al.* (2013), *Working paper of the meeting of the Speakers of Parliament of the Founding Member States of the European Union and the European Parliament in Luxembourg*, 11 January 2013.

Raunio, Tapio and Simon Hix (2000), "Backbenchers Learn to Fight Back: European Integration and Parliamentary Government", *West European Politics*, vol. 23, n° 4, 142-168.

Rozenberg, Olivier (2009), "Présider par plaisir. L'examen des affaires européennes à l'Assemblée nationale et à la Chambre des Communes depuis Maastricht", *Revue française de science politique*, 59(3), 401-427.

Treaty on European Union and Treaty on the Functioning of the European Union, Consolidated versions, *Official Journal C 83 of 30/03/2010*.

Treaty on Stability, *Coordination and Governance in the Economic and Monetary Union*.

Van Rompuy, Herman (2012), *The European Council in 2011*, Publications Office of the European Union, Luxembourg.

Wessels, Wolfgang (forthcoming), *The European Council*, Palgrave Macmillan.

Winzen, Thomas (2012), "National Parliamentary Control of European Union Affairs: A Cross-national and Longitudinal Comparison", *West European Politics*, 35(3), 657-672.

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